

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

v.

NIKI WILLIAMS,

Defendant.

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)
)
) Criminal Action No.
) 1:19-cr-10081-IT-9
)
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)

BEFORE THE HONORABLE INDIRA TALWANI, DISTRICT JUDGE

SENTENCING HEARING BY VIDEOCONFERENCE

Monday, December 21, 2020
2:20 p.m.

John J. Moakley United States Courthouse
Courtroom No. 9
One Courthouse Way
Boston, Massachusetts

Robert W. Paschal, RMR, CRR
Official Court Reporter
rwp.reporter@gmail.com

A P P E A R A N C E S

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P R O C E E D I N G S

(In open court at 2:20 p.m.)

THE DEPUTY CLERK: United States District Court is now in session, the Honorable Judge Indira Talwani presiding.

This is Case Number 19-cr-10081, United States versus Niki Williams. Will counsel please identify themselves for the record.

MS. WRIGHT: Good afternoon, Your Honor. Leslie Wright appearing for the Government.

THE COURT: Good afternoon.

MR. TENNEN: Good afternoon, Your Honor. Eric Tennen on behalf of Ms. Williams.

THE COURT: Good afternoon, who -- and Ms. Williams is here by videoconference.

So before we go any further, I just want to remind everyone who is on the line that Local Rule 83.3(a) prohibits rebroadcasting or taping this videoconference hearing, and with that, I'm going to proceed with the waiver.

Ms. Williams, you are appearing today by videoconference for your sentencing, and so I'm going to go through and describe the arrangements here and make sure that you're comfortable proceeding this way.

I'm physically present here in the courtroom. Your lawyer and the prosecutor are appearing by video. On your screen you should see me, my courtroom deputy, the lawyers,

1 the court reporter, and Ms. Victoria from the probation
2 office. There are no spectators here in the courtroom, but
3 the courtroom is unlocked.

4 If you have any trouble with the video or phone
5 connection or you cannot hear or see what is happening, let
6 me know. Speak up, wave your hand, and I'll stop and see how
7 we can take care of it. If you need something repeated let
8 me know. The court reporter is preparing a transcript of
9 this proceeding, but no recording of the video itself will be
10 preserved.

11 Now, you have the right to be physically present in
12 open court for this proceeding, but you can waive that right.
13 Before I ask whether you intend to waive your right, you
14 should know the following:

15 Today is December 21, 2020. We are experiencing a
16 worldwide epidemic caused by the coronavirus. The president
17 of the United States and the governor of Massachusetts have
18 each declared a state of emergency. Congress has passed an
19 emergency statute that permits defendants in criminal cases
20 to appear in court by video or telephone for certain types of
21 proceedings under certain circumstances.

22 Our normal procedure before the emergency was to
23 have all defendants physically present in the courtroom for
24 sentencings. We are attempting as best as we can to protect
25 the health and safety of our court employees, lawyers,

1 defendants, security personnel, and everyone else who is
2 involved with the court system.

3 At the same time, we are attempting to permit the
4 basic functions of the court to go forward without
5 unnecessary delay. The physical appearance of defendants and
6 counsel in the courthouse and their transportation to and
7 from the courthouse are likely to increase the health risks
8 for all persons involved as well as the general public.

9 To try to minimize the health risks, among other
10 things, we are giving defendants who prefer to appear in
11 court by video the option to do so. It's voluntary. You do
12 not have to appear by video, but if you do choose to appear
13 by video, I will ask you to waive your right to be physically
14 present.

15 You should also know that you have the right to a
16 public proceeding conducted in open court. Again, our normal
17 procedure before the emergency was to have all such
18 proceedings in open court in public view. As I said, the
19 courtroom is open. In light of the -- the courtroom is open,
20 but no one is here but me. In light of the emergency caused
21 by the pandemic, and as I announced on our website, we are
22 permitting members of the public to have access to this video
23 proceeding.

24 And, Ms. Marchione, are there members of the public
25 on the line?

1 THE DEPUTY CLERK: Yes, Your Honor, there are.

2 THE COURT: Thank you.

3 So with that, do you understand that you have the
4 right to be physically present in open court for your
5 sentencing?

6 THE DEFENDANT: Yes, I do.

7 THE COURT: Do you understand you have a right to
8 consult with your lawyer during the sentencing?

9 THE DEFENDANT: Yes. Yes.

10 THE COURT: Do you understand that if you wish to
11 speak with your lawyer during sentencing, you should just let
12 me know, and I will make arrangements for the two of you to
13 have a private conversation? Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand you have the right to
16 hear and see everything that happens in court during your
17 sentencing?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that, because I only
20 have a single camera here, you can only see part of the
21 courtroom?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand that your family
24 members and other supporters have the right to attend this
25 proceeding?

1 THE DEFENDANT: Yes.

2 THE COURT: And have you consulted with your lawyer
3 concerning waiving your right to appear in person?

4 THE DEFENDANT: Yes.

5 THE COURT: And do you agree to waive your right to
6 appear in person for your sentencing and instead appear by
7 video?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you also agree that to the extent
10 that your right to public access to this proceeding is in any
11 way impaired, you waive that right?

12 THE DEFENDANT: Yes.

13 THE COURT: And to counsel, is there any reason I
14 should not accept the waiver?

15 MR. TENNEN: No, Your Honor.

16 MS. WRIGHT: No, Your Honor.

17 THE COURT: I find that the defendant has knowingly
18 and voluntarily waived her right to appear physically and has
19 knowingly and voluntarily agreed to proceed by
20 videoconference.

21 I also find that Ms. Williams's sentencing cannot
22 be further delayed without serious harm to the interests of
23 justice. As Ms. Williams represented in the December 15,
24 2020, joint motion to conduct the sentencing via
25 videoconference, having now pleaded guilty, Ms. Williams

1 would like to proceed with sentencing as soon as possible so
2 that she may complete her sentence and move on with her life.

3 Because Ms. Williams resides in Texas, delaying
4 sentencing until it is reasonably safe for Ms. Williams to
5 travel to Massachusetts would constitute a delay of unknown
6 and indefinite length.

7 I further find that the measures taken to provide
8 public access to this proceeding are reasonable under the
9 circumstances and that, to the extent that the defendant's
10 right to public access to this proceeding is in any way
11 impaired, the defendant has knowingly and voluntarily waived
12 that right. So I accept the waiver and will proceed directly
13 to sentencing.

14 Let me go through the documents I have received and
15 read: I have the presentence report that was prepared on
16 November 16, 2020, and revised on December 14, 2020. I have
17 the Government's sentencing memorandum, both in redacted and
18 unredacted form. I have the defendant's sentencing
19 memorandum and accompanying exhibits that was filed
20 December 14th.

21 I have the superseding indictment; the plea
22 agreement that was signed August 11, 2020, and filed
23 August 12th; the victim impact statements from ACT, Education
24 Testing Service, and the College Board; and the Government's
25 motion for forfeiture filed December 15th. To my knowledge,

1 there was no other material that's been submitted.

2 Is that correct, Counsel?

3 MR. TENNEN: Yes, Your Honor.

4 MS. WRIGHT: That's correct, Your Honor.

5 THE COURT: And to probation, was any information
6 withheld from the presentence report pursuant to
7 Rule 32(d) (3)?

8 THE PROBATION OFFICER: No, Your Honor.

9 THE COURT: Thank you.

10 Ms. Wright, any witnesses, victims, evidentiary
11 matters of any kind?

12 MS. WRIGHT: No, Your Honor.

13 THE COURT: Mr. Tennen, have you had an opportunity
14 to review all the materials submitted in connection with the
15 sentencing?

16 MR. TENNEN: Yes, Your Honor.

17 THE COURT: And have you gone over it with the
18 defendant?

19 MR. TENNEN: Yes.

20 THE COURT: And I realize, as I listed the material
21 you submitted, it included an affidavit as well as letters
22 and an article. So I have reviewed all of that.

23 Ms. Williams, have you reviewed all the material
24 that was submitted in connection with sentencing?

25 THE DEFENDANT: Yes.

1 THE COURT: And have you had a chance to discuss it
2 with your counsel?

3 THE DEFENDANT: Yes.

4 THE COURT: And, Mr. Tennen, were you expecting any
5 evidentiary hearing today?

6 MR. TENNEN: I'm not sure, Your Honor. I think the
7 one issue is just the amount of money that should be
8 attributed to the forfeiture. It has possible -- well,
9 depending on how you rule on the guidelines, I don't think it
10 changes anything, if I'm anticipating how you're going to
11 rule on it; but in theory, it could impact the guidelines in
12 some ways. So I don't know how to handle that.

13 I submitted the affidavit. Hopefully that was
14 enough to give the Court a heads-up that it might be an
15 issue, but beyond that, given where we are, on Zoom, I really
16 don't know how the Court best wants to address it.

17 THE COURT: Well, let's go through -- the dollar
18 amount will matter because of the -- there's an order of
19 forfeiture at issue. So we have to resolve that issue, but
20 why don't we go through and see where we are after we get
21 through the presentence report.

22 So I have reviewed the presentence report. I have
23 an objection from the Government and three objections from
24 Ms. Williams. With regard to the Government's objections,
25 these -- am I correct, these are the same objections that

1 were raised in the prior sentencings in this case and in the
2 Abbott case?

3 MS. WRIGHT: That's correct, Your Honor. We have
4 submitted these objections previously, and Your Honor has
5 ruled on them. So we don't have anything further. We'll
6 just rest on our written submission.

7 THE COURT: Okay. So my ruling is the same as
8 before, and I am following the calculation that the probation
9 office has done. And I guess I characterize the financial
10 calculation differently than the Government has and that has
11 some impact on the numbers, but I will go -- overrule the
12 Government's objections as I have before.

13 With regard to the defendant's objections, the one
14 issue is the amount of the payments, which I think we have to
15 address. The second issue is the minor role adjustment,
16 which we should discuss. And then there is an objection
17 regarding some characterizations with regard to her medical
18 records. I think probation responded. Is there anything
19 else that needs to be done there?

20 MR. TENNEN: It wasn't really an objection. We had
21 records that we tried to locate that, ultimately, we were
22 unsuccessful in locating. I was just letting probation know
23 that we were making efforts to do it.

24 THE COURT: Okay. And I have reviewed the comments
25 as put forth by Ms. Victoria.

1 So let me start with -- I think we'll get to the
2 dollar value subsequently, because based on the probation
3 calculation, the dollar doesn't come in here. It'll come in
4 with regard to forfeiture.

5 MR. TENNEN: Right. It's not -- sorry. For
6 guideline purposes, my objection is no longer necessary.

7 THE COURT: Okay. So -- although if -- once we
8 resolve it, I would resolve it across the board so that
9 the --

10 MR. TENNEN: Right.

11 THE COURT: -- record is clean one way or another,
12 but let's address the rest of the guideline calculation.

13 Actually, let me change gears here. Let me --
14 let's go and let's talk about the dollar value, because it
15 has some view, also, on the -- as I think about your
16 adjustment for minor role. So let's just talk about the
17 evidence I have as to the amount of money that Ms. Williams
18 was paid.

19 I have Ms. Williams's affidavit stating that on the
20 first three occasions, she was paid \$2,500 in cash on each of
21 those three occasions, and those transactions went through
22 Mr. Fox, and that on the last occasion, it went directly from
23 Mr. Singer, and it was in the amount of \$5,000.

24 And the Government contends that Mr. Fox contends
25 that the dollar amounts were greater. I believe, according

1 to the presentence report, Mr. Fox claims that the dollar
2 amount on the December 2015 test was between 5,000 and 7,500;
3 on the June 2016, Mr. Fox says it was between 5,000 and
4 10,000; and the October 2016, Mr. Fox says it was between
5 5,000 and 10,000.

6 So, Ms. Wright, you have the burden of proof here.
7 What's the evidence I have to support the claim that it was
8 more than 2,500?

9 MS. WRIGHT: Yes, Your Honor. All we can really
10 cite to for today's purposes is what's in the PSR, and those
11 are Mr. Fox's statements to the best of your recollection --
12 sorry.

13 THE COURT: But just to go -- I mean, because if we
14 were in a trial we would talk about hearsay on hearsay on
15 hearsay. The probation office gets a statement of the
16 offense from your office.

17 MS. WRIGHT: Correct.

18 THE COURT: So it's in the presentence report, but
19 it's your office's statement that this is the amount.

20 MS. WRIGHT: Yes, Your Honor.

21 THE COURT: And your office's statement is based on
22 Mr. Fox's proffer, but I don't have an affidavit or anything
23 from Mr. Fox, and he didn't testify -- he didn't speak to
24 this in the -- his Rule 11.

25 MS. WRIGHT: That's correct, Your Honor. And what

1 I can say is that those proffer statements are based on the
2 best of his recollection. As Your Honor noted, those are
3 ranges that he gave based on the best of his recollection,
4 and we did not have an affidavit to submit.

5 Obviously, these payments were made in cash, so
6 it's really his recollection as opposed to the defendant's,
7 and we understand that the defendant has submitted an
8 affidavit here.

9 THE COURT: So -- and I'm curious, just -- given
10 that you have the burden of proof, and given that you have
11 one defendant who has said under oath that this is what she
12 received and has represented how little money she has -- that
13 seems to not be in dispute -- and how she would know the
14 difference between getting 2,500 and 5,000, and you have
15 another defendant who is also a defendant in this case who,
16 on these four transactions, received \$137,500, by your count,
17 why would we credit -- why would the Government credit his
18 representation what he paid to Ms. Williams over hers?

19 MS. WRIGHT: And I don't disagree with your
20 characterization, Your Honor. All I can say is that we have
21 taken the lower amounts of the range as he provided to take
22 the most conservative figure, and the other factor I would
23 point to is that the \$5,000 figure is consistent with the
24 known amount that was paid by check by Singer to Williams for
25 the final test.

1 THE COURT: I'm just going to push you a little bit
2 more on this because I find it surprising that you're asking
3 me to make this call. And the reason I find it surprising
4 that you're asking me to make this call is these are both
5 defendants in this whole mess.

6 There is nothing here in front of you -- of me to
7 suggest that there's any reason why the Government should
8 think that Mr. Fox is more likely to be telling the truth
9 than Ms. Williams. You've made no suggestion that he has a
10 greater level of credibility or any reason why the Government
11 would think what he's saying makes sense.

12 And, frankly, what he's saying doesn't have the
13 same indicia of -- as you have acknowledged, he's vague. He
14 doesn't remember. Those amounts -- those dollar amounts are
15 insignificant to him in the scheme of things, versus a person
16 who really knows the difference between 2,500 and 5,000.

17 And while you're saying it's consistent with the
18 payment Mr. Singer made, the payment Mr. Singer made cut out
19 Mr. Fox. So it really has no bearing on what Mr. Fox deemed
20 to pay Ms. Williams. There wasn't any arrangement between
21 Mr. Fox and Mr. Singer that's in the record as to how much
22 Ms. Williams should be paid. It was just whatever Mr. Fox
23 presumably thought he was going to pay. So I don't know how
24 the 5,000 would be an indicia of anything.

25 MS. WRIGHT: It's just that that is consistent with

1 what -- it's -- when cash payments are made like this,
2 Your Honor, it's difficult for us to have any certainty
3 whatsoever as to the exact amounts; however, when we do have
4 a final record with a written check that's in bank records
5 for \$5,000, and that that is consistent with the amounts that
6 Mr. Fox said that he paid, that's the amount that we went
7 with, Your Honor.

8 THE COURT: Okay. But you wouldn't disagree with
9 me, would you, that the Government hasn't been able to prove
10 that it is more likely than not -- the probability
11 standard -- you haven't -- you wouldn't disagree with me,
12 would you, that the Government has not met its burden of
13 showing that it is more likely that the amount was the
14 greater amounts?

15 MS. WRIGHT: From the Government's perspective, the
16 final payment of the \$5,000 does push it over the more likely
17 than not standard, but --

18 THE COURT: Even though -- even though -- I mean,
19 Counsel, the -- you know, if you're -- if you're trying to
20 prove something and you're looking at what somebody is
21 proving, you're looking if it's the same person making the
22 payments and things like that or the same person taking
23 certain kinds of action. This is a different person making
24 the decision of how much money to go to Ms. Williams.

25 I'm just -- I -- you know, it's safe for you to

1 make this because I can clean it up for you, but you have a
2 plea agreement that doesn't allow her to appeal the amounts,
3 and you're suggesting that the Government is proving that it
4 is more likely than not that she was paid 20,000 rather than
5 12,500, and I just -- I don't understand how you can
6 extrapolate to a more likely than not standard from one
7 payment from a different person over the vague -- I mean,
8 Mr. Singer isn't saying Ms. Williams was supposed to have
9 been paid 5,000 every time, is he?

10 MS. WRIGHT: That's correct, Your Honor. And while
11 there are different people making the payments, it's the same
12 person accepting the payments for the exact same conduct that
13 was repeated.

14 Furthermore, while we have the word of two
15 different defendants up against one another in this
16 circumstance, one of those defendants has a reason to
17 minimize that amount because it affects that defendant.
18 Whereas the --

19 THE COURT: I would think it affects both. I mean,
20 frankly, to have Mr. Fox have been paid on the first occasion
21 70,000 for this transaction, of which he only gave -- whether
22 it's by his account 5,000 to 7,500, or her account, 2,500,
23 he's picking up the giant share of this. I mean, just from
24 the way of how would you look at somebody from their role, I
25 think he has an enormous reason to suggest that he wasn't

1 pocketing it all.

2 MS. WRIGHT: Well, respectfully, Your Honor, I
3 mean, if he was going to lie about the amount that he paid
4 her to minimize how much he made, you would think that he
5 would say, "I paid her half," or "I paid" -- I mean, he
6 gave -- the estimates he gave were to the best of his
7 recollection, and they were, as Your Honor noted, small in
8 comparison to what he received.

9 THE COURT: He's suggesting it could be \$10,000,
10 when Mr. Singer was only paying 5,000 for the whole thing
11 after having cut Mr. Fox out of this last go round.

12 I -- it's just surprising me. So I find that the
13 Government has not met its burden of showing that the amount
14 was more than the 12,500, and so that is the amount that I'm
15 going to be using here as I go forward in making the
16 calculations.

17 So now let's talk about the role in the offense.
18 And, Mr. Tennen, you had an objection on this point.

19 MR. TENNEN: Sure, Your Honor.

20 And I will say, at the end of day, I think it
21 doesn't make a difference because the -- whether you accept
22 it or not, the guideline range is the same as still in
23 Zone A, as probation notes. So out of an abundance of
24 caution, I still made that in case things were going to go
25 differently.

1 I do think it's a valid objection in that I do
2 think that, when you put Ms. Williams in her place of this
3 conspiracy compared to everybody else, she fits all the
4 criteria, all the hallmark criteria of being a minor
5 participant.

6 She is -- she knew nobody, not even really Mr. Fox.
7 Mr. Fox found her through a connection that he had at Yates
8 High School. She was not somebody who put anything into
9 motion. She's not someone who had any control over this.
10 She took orders and didn't question much or push back in any
11 way. She didn't know the families.

12 And the amount of money, even at the Government's
13 estimation, pales in comparison to the amount of money that
14 was being given to others on the sort of -- the indictment
15 before you, on that side of things, the administrator
16 indictment, and even pales in comparison to what some of the
17 parents put forth on their own behalf.

18 THE COURT: What's your response, though, to the
19 point that probation made in response, which was, you know,
20 in a way, this wouldn't have happened without her? She held
21 the keys to -- to the room where the testing was happening --
22 I mean, literally held the keys there -- and if she hadn't
23 been there, this couldn't have proceeded?

24 MR. TENNEN: I think this could have happened with
25 any administrator, anyone who had the ability to administer

1 tests the way Ms. Williams did, had they, you know, found any
2 of those people. Her role did nothing in terms of planning
3 how this was going to happen or putting the pieces in place.

4 She was somebody that they found to do this, but
5 they could have found anybody in her place. For example, you
6 know -- but not, for example -- couldn't have replaced
7 Riddell, for example, who took the tests or some of the --
8 you know, or the parents, things like that.

9 So to me, she really is one of the only -- you
10 know, her and arguably the person on the West Coast are the
11 most replaceable of anybody in this conspiracy because they
12 just needed someone who could administer tests, and there are
13 hundreds if not thousands of people who can do that in
14 Houston, in Texas, and beyond.

15 THE COURT: But what about the argument that this
16 is -- I mean, yes, there are hundreds of thousands of people
17 who could abuse their position of trust, but she was the one
18 that they were able to convince to do that?

19 MR. TENNEN: No, no. I agree. She was the one,
20 and she agrees that she was the one and she did that. But
21 it -- in comparison to what the other people had to do to put
22 this into place, she was the last piece, and she could have
23 been anybody; and that's why I think she's a minor
24 participant, because she was necessary in the sense of she
25 ultimately agreed to do this, so she's the one who was the

1 last piece that allowed the testing to go through, but it
2 could just have easily been any of the other hundreds if not
3 thousands of administrators before you.

4 And you can't say the same for everybody else who
5 is part of the conspiracy. There are people who are just
6 irreplaceable that this could not have happened without, and
7 she is someone who would have been replaceable had they found
8 anybody else.

9 THE COURT: Ms. Wright, if you can respond to
10 that -- and perhaps focusing it a little bit on the
11 particular requirements set forth in the guidelines, the
12 degree -- I mean, basically -- I guess, maybe I should frame
13 the question this way. I think probation's point is well
14 taken in that she was in a position of trust and that she
15 sort of held the keys at the end.

16 But I also see where Mr. Tennen is arguing. If you
17 actually go through the guidelines, the degree to which she
18 understood the scope and structure of the criminal
19 activity -- pretty minor -- the degree to which she
20 participated in planning or organizing the criminal activity
21 seems to be zero. She just did what they told her to do.
22 The degree to which she exercised decision-making authority
23 or influenced the exercise of decision-making authority --
24 that wasn't her role.

25 And then the responsibility, discretion the

1 defendant had in performing -- the nature and extent of her
2 participation, including the acts she performed and the
3 responsibility and discretion the defendant had in performing
4 the acts -- I would assume that would be where you would find
5 it, but -- and then the degree to which she stood to benefit;
6 and, for example, a defendant who does not have a proprietary
7 interest in the criminal activity and is simply being paid to
8 perform tasks should be considered for an adjustment under
9 this guideline.

10 MS. WRIGHT: Sure, Your Honor. And I would just
11 push back a little bit on the decision-making authority,
12 although it kind of does revert back to the point of her
13 being the gatekeeper. Obviously, in each instance, she had
14 the decision-making authority to say yes or no.

15 And, especially, I would point to the Buckingham
16 exam, and it was within her power to let that happen how it
17 did, to not even purport to administer the exam. So she did
18 have some ability to decide whether to say yes or no and to
19 do it in whatever manner that Singer was suggesting.

20 THE COURT: But isn't that what -- isn't that what
21 every criminal defendant has done, is said yes or no to that
22 opportunity? I mean, let's assume, for example, the bottom
23 line courier in a drug operation. You could say similarly he
24 could have said yes or no. Is it similar to that?

25 MS. WRIGHT: Well, fair enough, Your Honor. But I

1 guess I'm thinking really specifically in terms of the
2 Buckingham exam and her role as a standardized test
3 administrator; you know, she could have pushed back on --
4 doing it in a different way, doing it in a less egregious, a
5 less blatant way.

6 The other thing I would point to with respect to
7 the decision-making authority is her completion and
8 submission of the forms to ACT. We don't have any indication
9 that anyone else in the conspiracy instructed her as to how
10 to do that or whether to do that, how to complete those, to
11 verify all the information in those forms. And so that is
12 something I would point to, that she did have the discretion
13 and authority to do that on her own, and she did.

14 But moving, I think, to the more forceful point is
15 the nature and extent of the participation. While it's true
16 that Ms. Williams did not profit as handsomely as many
17 involved in this scheme, she did do it multiple times. There
18 were five tests. There were four instances of cheating. And
19 while she didn't make a great deal of money for each of those
20 instances, she did stand to profit the more times it
21 happened. So the larger Singer's organization, the more
22 times he did this test-cheating scheme for more families, the
23 more she stood to profit personally.

24 THE COURT: Well, was she -- you know, it's
25 interesting because when I was looking at the dates -- I was

1 a little surprised about this -- but the first event happened
2 in December of 2015, and then you have two events in June and
3 October of 2016, but you don't have anything -- she wasn't
4 involved in this in 2017 or 2018 until Singer was
5 cooperating, and as part of her cooperation -- his
6 cooperation, contacted her for the last one. Am I wrong
7 about that?

8 MS. WRIGHT: No, Your Honor. The final -- the
9 Buckingham exam, the final exam, Singer was not yet
10 cooperating at that point. That all occurred over the
11 wiretap.

12 THE COURT: I see. That was before?

13 MS. WRIGHT: Correct.

14 THE COURT: Okay. So that was still happening on
15 his own?

16 MS. WRIGHT: Correct.

17 THE COURT: Okay. Okay. Well, I -- I don't have
18 to make a formal determination under the guidelines because
19 it doesn't make any difference whether it counts or not. I
20 do think she had a lesser role, clearly, than Fox, Riddell,
21 and Singer, who were all involved together with her.

22 I do think probation's point is well taken that
23 this was -- the fact that this was more than one occasion
24 weighs a little bit against it, but I think I'm going to just
25 duck that objection and just make the determination that I

1 don't need to make the determination. To the extent I do, I
2 accept probation's numbers and will use that as my starting
3 point.

4 So that gets us to a total offense level of five
5 after the acceptance of responsibility, no criminal history
6 points, so we have -- under the statute, she faces not more
7 than 20 years' imprisonment; under the guidelines, it's zero
8 to six months; under the statute, a statutory range for
9 supervised release of not more than three years; under the
10 guidelines, one to three years.

11 Statutory range for probation is one to five years,
12 under the guidelines, not more than three years. A fine --
13 the statutory range not more than \$250,000; guideline range,
14 \$500 to 9,500. And then I don't think there's a claim for
15 restitution, correct?

16 MS. WRIGHT: That's correct, Your Honor, there is
17 not.

18 THE COURT: And then we have the forfeiture motion,
19 which was seeking \$20,000, but based on my determination,
20 that will be entered for 12,500.

21 MS. WRIGHT: And, Your Honor, we will submit -- we
22 will file a revised motion with the correct amount --

23 THE COURT: Thank you.

24 MS. WRIGHT: -- based on Your Honor's ruling.

25 THE COURT: Thank you. And that special assessment

1 of \$100.

2 So with that, I'll hear the Government's
3 recommendation.

4 MS. WRIGHT: Thank you, Your Honor.

5 Pursuant to the terms of the parties' plea
6 agreement, the Government is respectfully recommending that
7 the defendant be sentenced to a term of imprisonment of six
8 months followed by one year of supervised release. The
9 Government's believes that a meaningful prison sentence is
10 warranted here in light of the serious nature of the
11 defendant's crime and the need for general deterrence.

12 The defendant, a public school teacher's aid and a
13 compensated standardized test administrator, actively
14 participated in Rick Singer's colleague entrance exam
15 cheating scheme over a span of approximately 2½ years,
16 accepting bribes from Singer and Martin Fox to facilitate
17 cheating on SAT and ACT exams on four separate occasions.

18 On one of these occasions, the defendant did not
19 even purport to administer the exam, instead brazenly
20 providing Mark Riddell with a copy of the test to take in his
21 hotel room on behalf of the student. Any connection with
22 each of the four ACT exams that she purported to administer
23 to the children of Singer's clients, the defendant falsified
24 forms that she submitted to ACT, Inc., to make it appear that
25 the exams were administered properly when, in fact, the

1 defendant had knowingly facilitated cheating.

2 While a first-time offender, the defendant readily
3 agreed to violate the duties she owed to the testing agencies
4 in return for cash. Defense counsel asserts that she did so
5 not for the money, but in a misguided attempt to help the
6 students. However, as a teacher especially should know and
7 as acknowledged by the defendant in a letter that she
8 submitted to the Court, helping a student to cheat is no help
9 to the student at all and, in fact, causes serious harm.

10 Defense counsel further contends that this was an
11 aberrant act of an objectively goodhearted person, and while
12 the defendant's goodhearted nature is certainly reflected in
13 the many letters submitted to the Court on her behalf,
14 facilitating cheating on multiple occasions over a span of
15 years can not be written off as an aberration or a small
16 indiscretion.

17 Finally, while she is certainly not the most
18 culpable of those charges in the colleague admissions cases
19 and did not profit the most handsomely, the defendant played
20 an integral role in the test-cheating aspect of Singer's
21 scheme. Her position as a standardized test administrator
22 and her willingness to violate the duties she owed to the
23 testing agencies made the cheating possible. As discussed,
24 it simply could not have happened at the Houston test center
25 without her willing involvement.

1 The defendant not only defrauded the testing
2 agencies that relied on her to administer the exams properly,
3 but also undermined public confidence in the integrity of
4 college entrance exams and the college admissions process
5 more broadly. Such conduct requires a meaningful sentence
6 for purposes of just punishment and to afford adequate
7 deterrence.

8 And for all these reasons, Your Honor, the
9 Government respectfully requests that the Court sentence the
10 defendant to a term of imprisonment of six months followed by
11 one year of supervised release.

12 THE COURT: Thank you.

13 I understand that when you're giving me sentences
14 and looking at their relative sentences, you're asking for --
15 compared to other defendants. You're referencing the
16 sentences you've asked for. But when I look at treating
17 similarly situated defendants similarly, the similarity isn't
18 what does the Government ask for, but sort of how does this
19 play out in realtime in real life.

20 And so perhaps you can help here by, first of all,
21 letting me know where you think Ms. Williams fits in, in the
22 scheme. You've said she's not the most culpable. Would you
23 agree with Mr. Tennen that she's the least culpable?

24 MS. WRIGHT: Well, I guess that -- in -- with
25 respect to the test-cheating aspects of Singer's scheme,

1 Your Honor?

2 THE COURT: Either way.

3 MS. WRIGHT: I don't know that I would say she's
4 the least culpable. I think among the most similarly
5 situated defendants -- which I would agree with Your Honor
6 are, if you want to look at Singer first and then Fox,
7 Dvorskiy and Riddell, I believe those are the most similarly
8 situated -- I would agree that she is the least culpable
9 amongst those defendants.

10 THE COURT: Okay. And if you broaden it a little
11 bit more to include some of the people like Ms. Sarah or some
12 of the others who are involved in the KWF enterprise -- less
13 culpable, more culpable?

14 MS. WRIGHT: I would agree that she's less culpable
15 and that she only had insight into this one aspect of
16 Singer's enterprise.

17 THE COURT: Okay. And then if you were to expand
18 it more broadly compared to the role of the coaches -- less
19 culpable or more culpable?

20 MS. WRIGHT: I think you'd have to look at each
21 coach and the number of times they engaged in the conduct
22 that we're discussing; however, if you were looking at it
23 just for -- a broader view of accepting bribes in exchange
24 for violating your duty of honest services, whether it's, you
25 know, to the testing agencies in this defendant's situation

1 or to the university, as it is in the coaches', she's
2 certainly less culpable than someone like Donna Heinel or
3 Gordon Ernst who did it repeatedly and made substantial
4 amounts of money. But perhaps a coach that only did this
5 once or twice, she is, I would say, fairly equally culpable.

6 THE COURT: And when the Government has pushed for
7 using the other guideline measure, one of the things you've
8 talked about is the dollar and profit, the total money that
9 the people made on this. Am I correct that Ms. Williams was
10 paid the least of anybody -- now that you're using my \$12,500
11 sum -- that she was paid the least of anybody in this
12 enterprise, or of a group of people charged? I mean --

13 MS. WRIGHT: Of the charged defendants, I believe
14 that's correct, Your Honor.

15 THE COURT: Okay. And then if you were to compare
16 what her -- how you view her offense versus now looking even
17 more broadly, she's charged with the same crime as the
18 parents, how would you compare her offense to the parents?

19 MS. WRIGHT: Yes, I think that's -- that's a tricky
20 question, Your Honor, and I actually did think about that
21 when we were discussing the role as well, because in terms of
22 insight into Singer's organization and the nature and scope
23 and all aspects of it, I would say that Ms. Williams's -- is
24 similarly situated to some of the parents who perhaps did the
25 test cheating one time and didn't know all the players.

1 However, as defense points out in their
2 submissions, those parents paid substantial amounts of money
3 and also realized a significant benefit, whether that was
4 just the enhanced -- fraudulently enhanced score or an actual
5 admissions spot to a university, either through the athletic
6 recruitment scheme or based on that fraudulent score. So
7 perhaps they stood more to gain.

8 However, on the other hand, this defendant was in
9 that position of trust that we discussed in a way that the
10 parents were not, and it was her abuse of that position that
11 allowed all this to happen. So in that sense, I would say
12 she's more culpable than some of the parents.

13 THE COURT: Okay. Thank you.

14 Mr. Tennen?

15 MR. TENNEN: Thank you, Your Honor.

16 I know you've read the memo, but I did just want to
17 put some things on the record in open court about
18 Ms. Williams that I think are important and that you should
19 be considering.

20 I do think that Ms. Williams stands apart from just
21 about everybody else. Your Honor knows more about everybody
22 else than I do, and there are some people who I've read
23 little about. So I'm saying almost, based on my knowledge.

24 But I think she stands about -- stands apart from
25 almost everybody else in that she appears to me to be the

1 only one that didn't come into this from a life of privilege.
2 She has led a life of many hardships, and throughout that
3 life of hardships, she has always, always put others before
4 herself.

5 This is someone who, when you talk to, is full of
6 positivity. When you read the PSR, you know, and how she
7 talks about her life and how things were growing up, she
8 always spins things as good as she can, despite the fact that
9 this is someone who lived in a single-family home, whose
10 mother worked a lot, who lost her mother when she was
11 younger, not a youth, but younger, in her 20s, who lost her
12 home to Hurricane Katrina and was displaced to Houston, who
13 had to start all over, who worked a job that was very
14 fulfilling to her, but paid her relatively -- not a lot,
15 \$20,000 a year. And yet, when she talks about things,
16 everything is always wonderful.

17 This is someone who spent her life in service of
18 others, most notably her students -- not only, but most
19 notably, her students, and that is just overwhelming,
20 over- -- comes across overwhelmingly when you read all the
21 letters about her. These -- I've never seen letters like
22 this where -- people normally say, "Oh, I know this person.
23 This is a good person. Please," you know, "be good to this
24 person."

25 All the letters here are telling you all of the

1 specific ways in which Ms. Williams gave of herself, when she
2 barely had anything to give. And I think that's important
3 because I don't think that is true for everyone else involved
4 in this scheme. Everyone else came at this scheme with
5 some -- wanting something for themselves or for a family
6 member, if you will.

7 There -- and you could say not -- was it necessary?
8 Because they lived a life where they shouldn't have had to do
9 that, where they had a lot already in opportunity, where they
10 had a lot already in terms of financial stability and were
11 looking just to gain through that, and that is not where
12 Ms. Williams comes from.

13 When I talk about her involvement in this case, I
14 don't think Your Honor has taken this, this way, but I'll
15 just be blunt about it: It's not to say that she didn't know
16 she was doing something wrong. She absolutely did, and she
17 says that in the letter. She said that to probation. You
18 know, she knew that this was not right.

19 But, again, the reason for getting involved, in her
20 distorted way, was "I'm not doing something right, but I'm
21 helping students who need help," because that's what she
22 always did. She was a special needs teacher, and she was
23 told that these are special needs students, which from all
24 appearances, you know, seems to be true in terms of what she
25 knew. These are people who actually got special need waivers

1 outside of her presence, and so that's who she thought she
2 was helping. Knowing she was doing something wrong, she
3 thought ultimately the person who was going to benefit was
4 going to be a special needs student, who were the kinds of
5 students she worked with all her life.

6 I think that matters. She didn't come at this
7 saying, "Oh, my, God, I just found a way to make money."
8 And, in fact, if you look through all the evidence the
9 Government has, there was never talk about money. She got
10 what she got, and she was happy with that.

11 Again, I'm not trying to minimize. She was
12 certainly happy with that. She knew she was getting money
13 for something she shouldn't be doing. But she was never
14 asking for any amount or pushing for anything. When Singer
15 talks to her, you have that whole -- that's the only recorded
16 consideration. He offers it up, and she says, "Oh, really?
17 Okay. Great. Thank you." So I don't think that could ever
18 be seen as her motivation to do this, and I think that
19 matters.

20 I think that -- so Your Honor should take that into
21 account that she came into this scheme differently than
22 everybody else, and the story of her life is different than
23 everybody else. And she has paid a steep price for this.
24 And what I mean by that is a steep price for who she is and
25 where she was, so that the very first thing that happened

1 before she even pled guilty, but just by virtue of being
2 charged, is she lost her job at the high school where she had
3 worked for, you know, 15 to 20 years -- I forget the exact
4 number right now -- but where she had worked for a very long
5 time, a job that was her life, that she put everything into.

6 And you can see from the letters, you know, the --
7 her participation in that school went way beyond what her
8 duties were, way beyond her classroom responsibilities. But
9 all the time, she volunteered for after school programs and
10 for her cheerleaders and for students who just needed a meal
11 or a place to stay. Her job was everything to her, and she
12 lost that, and that was a blow, an absolute blow to her.

13 It was also a financial blow because that was her
14 only source of income. And unlike everybody else in this
15 case who can fall back on savings, who can fall back on
16 careers that aren't -- you know, that are going to be just
17 fine as they get through this, she did not have it, and she
18 does not have this. She still doesn't have this.

19 She had a very hard time finding employment after
20 she got let go. It wasn't going to happen -- she wasn't
21 going to get another job in the education field, at least she
22 couldn't find one. She had a hard job finding a job,
23 generally. When she finally found something, COVID hit. And
24 three weeks into being a food service worker, at -- she got
25 laid off from that and continued to struggle to find

1 something.

2 Finally, recently, she was able to find a job as an
3 administrator of sorts and -- for a real estate company or a
4 real estate agent, I should say. And that's -- she's been
5 fortunate to have that, but no -- you know, even that is not
6 as good as her -- what she was making financially before,
7 which even then wasn't that great.

8 So she has really struggled through this, and she
9 is not just going to bounce back when this is all over the
10 way I envision just about everybody else in this matter
11 bouncing back because they have financial stability, because
12 they have careers that can weather this. You know, and for
13 some of them, this may even be a boost. So she doesn't have
14 that. So --

15 THE COURT: I don't think we have anybody for whom
16 this is a boost. I think that's a --

17 MR. TENNEN: Well, I --

18 THE COURT: You can say that it doesn't impact
19 people the same, but I don't think you can fairly say that
20 it's been a boost for anybody.

21 MR. TENNEN: I -- fair enough. I have something in
22 mind, but I'll leave at that.

23 So, you know, that impact financially and just her
24 ability to do what she loved and help those students has
25 really been a blow. I think it's telling that, when she

1 talks about this in her letter and to probation, you know,
2 she is concerned -- she talks about how she feels bad for the
3 students she let down, almost before anybody else. And she
4 talks about even the students in this case who she doesn't
5 even know, feeling bad that she may have set them back, and
6 that's the last thing she wanted to do. So I think all that
7 matters.

8 The forfeiture amount is something that it's going
9 to take her a very long time to pay off. That is a really
10 hard thing that she is going to have to deal with moving
11 forward. And she, you know, can't just write a check or, you
12 know, pay a fine the way some of the other defendants can. I
13 think that matters.

14 I think all that goes to the point that
15 incarceration is not necessary and I think would be -- would
16 really set her back. She finally has some employment. She
17 finally has some stability. I do not think that that should
18 be disturbed. She needs that desperately. She really does.

19 I think incarceration is not necessary, also,
20 because it's not always necessary. It really isn't. And
21 sometimes people commit crimes. Sometimes, you know, they
22 deceive or they defraud, but the -- we don't have to send
23 them to prison. We can manage them in other ways.

24 This is not someone who I think Your Honor should
25 be or is -- I don't know -- but I don't think Your Honor

1 should be worried about her doing something like this again
2 because of -- what has happened to her, you know, far
3 outweighs any of the benefits that she may have gotten from
4 this offense and will continue to do so. So I don't think
5 that this is someone who needs to be deterred. I think this
6 is someone who needs to be given as much opportunity to grow
7 and move beyond this as possible.

8 The guidelines, as calculated by Your Honor, being
9 a zero to six, in a Zone A, as I've always understood that --
10 I don't actually think I've ever had a defendant in a Zone A
11 before -- but as I've always understood that and looked at it
12 from afar from some of my other cases, presumes a
13 nonincarcerated sentence unless there's some reason to give
14 an incarcerated sentence, and I don't see any reason here. I
15 don't see any reason why she shouldn't get a nonincarcerated
16 sentence.

17 I don't think anyone is asking for a fine.
18 Obviously, I don't think there should be a fine.

19 I -- my recommendation was a year of probation. I
20 come at that for a couple of reasons. First is she has
21 already -- this case has dragged out, through no fault of
22 anyone, but because of the pandemic, we have just been
23 delayed, delayed, and delayed. And she has been, since day
24 one, essentially, supervised in this case and has shown that
25 she can comply with all conditions without any issue and has

1 a good relationship with her probation officer in Houston. I
2 think that was reported in the PSR.

3 So a lengthy probation is not necessary to put her
4 on track as it might be for some other people who may have
5 had a shorter pretrial/probation period, who may have been
6 held during pretrial/probation or something look those lines.
7 So the length of it, I think, is just not necessary to do
8 what we are seeking to do with sentencing.

9 The other reason I ask for probation is slightly
10 symbolic. I don't think that even a sort of a one-day,
11 time-served, supervised-release sentence is appropriate
12 because I don't think she should be seen as receiving a
13 sentence for this, not so much because of what she did, but
14 because of who she is.

15 And I think someone like her should get some
16 benefit of the life she's lived before she was ever involved
17 in this, never knowing that she was going to be involved in
18 something like this, should get some benefit of the way she
19 has served others. And that benefit should be that, you
20 know, for when she got involved in this for the reasons she
21 did and where she is in life, she won't be sentenced, but she
22 will be given probation and a chance to right whatever wrong
23 she has committed and move forward. So that's why I
24 recommend what I did recommend in terms of one year of
25 probation.

1 Beyond that, I think that's everything I have. I
2 know Your Honor has read the letters. And I know I've said
3 this, but the diverse -- the diversity of people who came
4 forward, all seeing the same person, I think is impressive.
5 You have from principals to pastors to former students to
6 relatives, old and young, and they all paint the same exact
7 picture of who she is, and that is remarkable. For someone
8 to give that impression so consistently across so many
9 aspects of her life, I think just speaks volumes of who she
10 is and why Your Honor should not give her an incarcerated
11 sentence.

12 So that's -- that's all I have.

13 THE COURT: Thank you.

14 Okay. Ms. Williams, did you want to speak at this
15 time?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: Okay.

18 MR. TENNEN: I'm sorry, Your Honor; I had asked
19 her. I should have said I had asked, and she had indicated
20 to me that she had the letter and she wasn't -- didn't want
21 to say anything further.

22 THE COURT: And I have read the letter. Thank you.

23 In sentencing, I'm required to consider the factors
24 set forth at 18 U.S.C. Section 3553(a), and I have done that
25 here, and I want to go through sort of my thinking and then

1 tell you about the sentence that I'm going to impose.

2 The nature and circumstance of the offense, we have
3 had -- is it now a year and a half of almost -- almost two
4 years of going through all of these cases. I think everyone
5 recognizes that this was a pretty audacious scheme and that
6 it impacted a lot of people and it impacted sort of trust and
7 confidence in our admissions system.

8 But that said, I do agree with your attorney that
9 your role in here in this event was a little bit different
10 than some of the other participants, and I see your offense.
11 It certainly wasn't -- it can't be written off in any way.
12 You made a decision to make money in a way that was illegal,
13 and you knew it was illegal, and you knew it wasn't what you
14 were supposed to do.

15 But I -- I can't get -- I can't ignore that your
16 relative role, whether it's a formal departure or just
17 considering it here under the factors, I went through and I
18 made myself a little chart of the amounts that these families
19 paid, amounts of 95,000, 75,000. Three families paid 75,000,
20 one family paid 95,000, and one family paid 50,000.

21 And out of that \$370,000 that ended up buying test
22 scores, you were paid 12,500. So 3 percent of the total
23 profit went to you in this scheme, and 97 percent went to
24 other people. So I have to say I do think it's not
25 insignificant that you did this on four occasions. You

1 probably would have continued doing it. There was no reason
2 not to continue doing it if this has continued, for all I
3 know; but nonetheless, relative culpability here, it's just a
4 nature of a different factor here.

5 And I just sort of want to say, also, you know,
6 this offense, which is that you deprived your employer -- or
7 here was an independent contractor relationship -- but you
8 deprived them of your honest -- they were deprived of your
9 honest services. In most cases in the private sector, that's
10 penalized by getting fired.

11 And it's been made clear, because this is what this
12 is -- it wasn't just a small private matter -- it amounted to
13 a federal crime. You have a felony conviction.

14 Mr. Tennen, I really don't agree with your
15 portrayal of a question of "symbolic because this isn't
16 really" -- something, something. This is really a felony
17 conviction, and she is going to be suffering the consequences
18 of a felony conviction regardless of how much time she does
19 or doesn't end up serving here.

20 So it is -- it was a -- it could have been seen as
21 a private crime, but it isn't. It's a bigger crime. It
22 amounts to a felony, but within that whole scheme, she's
23 3.3 percent of the total amount here.

24 I consider next defendant's personal and criminal
25 history and characteristics. And, you know, I think almost

1 every defendant who has appeared in front of me so far has
2 asked me to think of this has somewhat aberrational behavior.
3 And it has caused me to sort of think about, you know, good
4 people sometimes do bad things, and bad people do good
5 things. I don't know.

6 In your case, there is a difference here. Your
7 personal history shows this truly as an aberration, and I say
8 it in -- looking at -- you don't have any other debts other
9 than your student loan. You have lived within this meager
10 salary. You have been working historically throughout your
11 life. You worked and you regularly worked, and you were
12 making \$25,000 a year or \$20,000 a year, and you lived within
13 your means, and you weren't out there buying things and
14 trying -- this was not -- this was -- certainly, you did this
15 for the money, but this wasn't any pattern of self-interest
16 in any kind of a larger scale.

17 And in considering your personal and criminal
18 history, I have to tell you I found the letters from your
19 employer just really different than most -- what I mostly
20 see. To have been fired from a school district for this and
21 to nonetheless have a letter from the superintendent and from
22 the people you worked with attesting to your commitment for
23 over all of those years, that part of your personal history
24 shows to me that everyone in your world knows your work
25 ethic, knows your dedication to, in fact, doing your job and

1 doing your job right. And it makes me see this as a bad
2 mistake you made, a very bad mistake, but not something that
3 would dictate that you would be likely to ever do something
4 like this again.

5 I go through the sentencing ranges, how to avoid
6 unwarranted sentencing disparities. It does seem to me that
7 you are the least culpable of the defendants here, that you
8 have suffered great consequences of this conviction in losing
9 your job and losing your opportunity to continue working as a
10 teacher or as an assistant teacher, and so I don't think a
11 noncustodial sentence would result in any unwarranted
12 sentencing disparities.

13 So the sentence that I have determined to impose I
14 believe reflects the seriousness of the offense, which is
15 that you now have a felony conviction. You have lost your
16 job and your ability to even be teaching, but I don't think
17 you need any additional custodial time. You will have to pay
18 back the 12,500. The total proceeds that you made, you will
19 have to pay back to the Government. And I am going to impose
20 a one-year probation sentence.

21 I don't -- I want to be very clear: I don't agree
22 with Mr. Tennen's characterization of probation. This is not
23 probation in the sense of let's see how you do, maybe you --
24 you know, this isn't state law, "Let's continue without a
25 finding, and maybe if you're really good, this gets wiped

1 away." This is on your record. You have it. But I'm not
2 imposing imprisonment. And under our sentencing scheme, if I
3 don't impose imprisonment but I do want you to be supervised,
4 the term for that is "probation," and that's what I'm
5 imposing. And during that one year, you will need to comply
6 with all of the requirements.

7 So just -- my reasoning for the sentence, I think
8 it is sufficient. It's not greater than necessary to serve
9 the policies.

10 I will be imposing probation for one year, no fine
11 based on an inability to pay, forfeiture in the amount of
12 12,500, all of the mandatory conditions of probation and --
13 including paying the assessment imposed on a schedule to be
14 determined by the court, and additional -- you must notify
15 the Court of changes in your economic circumstances that
16 might affect your ability to pay, and the \$100 special
17 assessment.

18 So that's the sentence I'm going to impose. Any
19 objections before I formally impose it?

20 MS. WRIGHT: No, Your Honor.

21 MR. TENNEN: No, Your Honor.

22 THE COURT: So, Ms. Williams, just my last few
23 sentences before I formally impose sentence, I don't mean by
24 this sentence to suggest that you're not being punished. I
25 think you have been punished. And I think you know you've

1 been punished. You do have a felony conviction, and while
2 you're on probation, you cannot vote in the state of Texas.
3 You cannot -- you have to comply with the requirements I'm
4 going to be setting forth here.

5 But I do hope that you are able to move forward
6 with your life, and I think your work ethic before has -- is
7 the reason that I have been impressed with what you're going
8 to hopefully be able to do going forward. I think there are
9 people who have had confidence in you, and I think that's
10 probably because you have earned that confidence from them.

11 So with that, pursuant to the Sentencing Reform Act
12 of 1984, and having considered the sentencing factors
13 enumerated at 18 U.S.C. Section 3553(a), it is the judgment
14 of the Court that the defendant, Niki Williams, is hereby
15 placed on probation for a term of one year.

16 I am not imposing a fine as I find that the
17 defendant does not have the financial ability to pay a fine.
18 I am granting the United States' motion for entry of an order
19 of forfeiture in the form of a personal money judgment, and I
20 am ordering that defendant forfeit the sum of \$12,500.

21 And while on -- under the probation office's
22 supervision, you shall comply with the following terms and
23 conditions:

24 You must not commit another federal, state, or
25 local crime. You must not unlawfully possess a controlled

1 substance. Drug testing conditions are suspended based on my
2 determination that you pose a low risk of substance abuse.

3 You must cooperate in the collection of DNA as
4 directed by the probation officer. You must make restitution
5 in accordance with 18 U.S.C. Sections 3663, 3663(a), and
6 3664. You must pay the assessment imposed in accordance with
7 18 U.S.C. Section 3013, and you must notify the Court of any
8 material change in your economic circumstances that might
9 affect your ability to pay restitution -- sorry -- to pay the
10 forfeiture.

11 You shall comply with the standard conditions that
12 have been adopted by the Court, which are described at
13 sentencing guidelines Section 5B1.3(c) and which will be set
14 forth in detail on the judgment. And I think that's it. I'm
15 imposing, also, the \$100 special assessment.

16 So I think that's all. You do have -- the sentence
17 is imposed for all the reasons I've previously stated,
18 because I do believe it is reasonable and is sufficient but
19 not greater than necessary to accomplish the goals of
20 sentencing consistent with 18 U.S.C. Section 3553 and the
21 Supreme Court's guidance.

22 Your plea agreement limited your right of appeal,
23 and under the terms of your plea agreement, you have waived
24 your right to challenge your conviction on direct appeal or
25 in a future proceeding. You've also waived your right to

1 file a direct appeal or a challenge to your sentence,
2 including any court orders relating to forfeiture or
3 probation, but you may still appeal on the ground of
4 ineffective assistance of counsel or prosecutorial
5 misconduct. And if you're unable to appeal costs, you may
6 ask for permission to appeal in forma pauperis.

7 Sentence is imposed as stated. Is there anything
8 further?

9 MS. WRIGHT: Nothing further from the Government.

10 MR. TENNEN: I don't know if you have to formally
11 say anything to allow her to be supervised in Houston.

12 THE COURT: I think we do paperwork for that, but I
13 don't think there's anything else.

14 Ms. Victoria, do I need to do anything? You'll
15 just send me the form for me to transfer supervision once
16 they want it over there?

17 THE PROBATION OFFICER: Yes, Your Honor. I've
18 already been in touch with Houston. I will let them know
19 what happened, and she'll be supervised by them. If there's
20 a request to transfer jurisdiction of the entire case, you'll
21 receive that paperwork, Your Honor.

22 THE COURT: Okay. But so, for now, without
23 anything further, she will continue to be supervised by the
24 probation department there in Houston?

25 THE PROBATION OFFICER: She will. And, actually,

1 I'll say it now while she's here on the line, her current
2 probation officer has asked that she call her after the
3 hearing, and she'll give her further instructions.

4 MR. TENNEN: All right.

5 THE COURT: Okay.

6 MS. WRIGHT: Your Honor, just one other --

7 THE COURT: Yes.

8 MS. WRIGHT: -- last item. The Government at this
9 time moves to dismiss Counts 1 and 8 of the superseding
10 indictment against this defendant.

11 THE COURT: Thank you. I would have been coming to
12 the judgment form and having to call everybody back up. That
13 motion is granted.

14 MS. WRIGHT: Thank you.

15 THE COURT: Okay. Thank you, everybody.

16 Good luck, Ms. Williams.

17 And we are in recess.

18 (Court in recess at 3:30 p.m.)
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CERTIFICATE OF OFFICIAL REPORTER

I, Robert W. Paschal, Registered Merit Reporter and Certified Realtime Reporter, in and for the United States District Court for the District of Massachusetts, do hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing pages are a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 5th day of January, 2021.

/s/ Robert W. Paschal

ROBERT W. PASCHAL, RMR, CRR
Official Court Reporter